



Costs Decision

Site visit made on 24 September 2025

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 OCTOBER 2025

Costs application in relation to Appeal Ref: APP/R3650/C/25/3366851

Cherry Tree Cottage, Stroud Common, Guilford, GU5 0SZ

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Ms Jill Monk for a full award of costs against Waverley Borough Council.
 - The appeal was against an enforcement notice alleging without planning permission: erection of a fence.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellant's application for costs is focussed on the following: -
 - a) That costs were incurred in terms of preparing for and addressing a different enforcement notice that was issued by the local planning authority (LPA).
 - b) The LPA has not reasonably provided evidence to demonstrate why the alternative options put forward by the appellant would not remedy the alleged harm caused to highway safety and/or why the LPA did not withdraw the enforcement notice and/or issue a new notice based on such alternative options. The claim is that the LPA did not reasonably engage with the appellant in respect of these matters.
 - c) The LPA has not substantiated its position in terms of the fence creating an obstruction to the view of persons using a highway used by vehicular traffic.
 - d) The LPAs claim in its statement of case about the two-metre-high fence being adjacent to a highway used by vehicular traffic, and hence requiring planning permission given the limitations of Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), was not expressly referenced in the reasons for issuing the enforcement notice.
4. In respect of a) above, the application for costs must relate to appeal reference APP/R3650/C/25/3366851 and its associated enforcement notice. I cannot consider whether unreasonable behaviour and unnecessary or wasted expense occurred in respect of a different enforcement notice and, moreover, I am not

aware that an appeal was lodged in respect of any such different enforcement notice.

5. As regards b) above, I have reasoned in my enforcement notice appeal decision that the 'alternative' options put forward by the appellant would amount to a different breach of planning control. The LPA did not act unreasonably in terms of issuing the enforcement notice in so far as it related to the breach of planning control that was in place when it was issued. Had the appellant wanted the LPA to consider a fence in a different location, and of differing heights, then it was open to her to have submitted a planning application to the LPA. As part of that process, the LPA would then have been able to consider whether such different development would have been acceptable in planning terms including the consideration of matters such as its effect on the openness of the Green Belt and highway safety.
6. I acknowledge that the appellant did put forward the 'alternative' options to the LPA prior to the enforcement notice being issued. The Council did provide a response to the appellant in this regard, although I accept that it is not the response that she wanted. The appellant's concern appears to relate to one relating to enforcement expediency and that the requirements of the notice could have been drafted in a different or less excessive manner. This is a matter that I have addressed in my reasoning in the enforcement appeal decision. I do not find that the LPA acted unreasonably in terms of issuing the enforcement notice and am satisfied that it reasonably substantiated its position in the context of only a ground (f) appeal being lodged.
7. In respect of c), the LPA's evidence is that the fence requires planning permission because it is adjacent to a highway used by vehicular traffic. In my enforcement appeal decision, I have agreed with the LPA in this regard. While there is a dispute between the main parties in terms of whether part of the fence does in fact impair vehicular sightlines, particularly in respect of the south-eastern visibility splay, I am satisfied, in any event, that the LPA did not act unreasonably in terms of concluding that the fence required planning permission. Indeed, I have concluded in my decision that it is adjacent to a highway. Moreover, the evidence is that part of the fence falls within the north-west visibility splay for Cherry Tree Cottage.
8. In respect of d) above, the reasons for issuing the notice relate to expediency matters, i.e., alleged planning harm. It was not necessary to expressly refer to why the fence was deemed to be development requiring planning permission. It is also noteworthy that the appellant did not expressly lodge an appeal on ground (c) of section 174(2) of the Act, i.e., that the matters alleged do not constitute a breach of planning control.

Conclusion

9. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted

D Hartley

INSPECTOR